

## ***HIGHLIGHTS FROM THE CORPS CONTRACTING COMMUNITY***

### **SAD CONTRACT AUDIT FOLLOW UP GUIDANCE**

*(Kay Bauer, CESAD)*

We are approaching the Overage Audit Review Board (OARB) to discuss the errors in reports and hopefully obtain the status of and make recommendations to expeditiously resolve most of the Overage Audits. SAD has distributed the following Guidance Consolidated from Contract Audit FOLLOW UP (CAF) training conducted at Ft. Belvoir and in Atlanta as a supplement to the CAF guidance issued by the PARC office. This guidance might be useful in enabling each Contracting office to continue reducing or totally or eradicating errors in reporting.

#### ***PREPARATION OF AUDIT REPORTS IN CAF DATABASE:***

1. **ACTIVITY CODE:** Ensure that the Activity Code is correct. It must match the first six elements of the CONTRACT ft. A military contract in CESAM, for instance, would have an Activity Code of DACA01; a civil works contract in CESAM would have an Activity Code of DACW01.

2. **AUDIT NO.:** Ensure that the Audit No. is correct. A correct audit report number will have 4 characters, then a dash (-), then eight characters, then a dash, then from a single to any number of characters. For instance, 1251-95FI7200-0355183. Supplemental audit reports would be reported as, for example, 1251-95FI7200-0355183-SI. Note the dash must be placed after the third set of characters and before the S. You will find that the Audit Number depicted on your actual audit report will not necessarily follow the numbering system depicted above - usually they will be missing the dash (-) after the second set of characters. You must assure that you make the necessary changes when entering the audit report number in your database.

3. **AUDIT REPORT DATE:** The audit report date must be the same date as shown on the audit report and entered as MM/DD/YY, i.e., 08/08/97.

4. **CONTRACTOR:** Please double check the spelling of the Contractor name. The only errors I have ever noted here

have been typographical. Assure you enter the full name of the company, i.e., JOHN Q. SMITH CO., INC.

5. **TYPE AUDIT:** In order to select the Type Audit, use the following to identify the correct letter to be entered in this field:

Type Description	Activity Codes
A Estimating System Survey	24010, 24030, 24090 (if the audit-contains adverse opinions requiring contractor corrective action
B Accounting Systems And Related Internal Control	12500, 16995, 17700, 17750, 11010, 11020, 11050, 13080, 11510, 11520,
System Reviews	12010, 12030, 13010, 13020, 13060, 13070, 13090, 13100, 14980, 16993, 16999, 26000, 11070 (If the audit contains adverse opinions requiring contractor corrective action.)
C* Claims (Includes Requests for Equitable Adjustments)	17200, 17300, 17400
D Defective Pricing Review	42000, 42010, 42020, 42040, 42097, 42098 (Reportable if the net recommended adjustment is greater zero.)
revised price than	
E CAS Noncompliance And Cost Impact	19200, 19500 (All 19200 reports are 19500 reports are reportable if exception dollars are
total	

	greater than zero.)	
F* Operations Audits	10501, 10250, 10310, 10320, 13030, 13040, 13050, 13500, 14010, 16990, 16994, 17800, 17900	
G* Incurred Cost and Settlement of Final Indirect Cost Rates	10150, 10250, 10310, 10320, 13030, 13040, 13050, 13500, 14010, 16990, 16994, 17800, 17900	
H Contractor Insurance/ Pension Reviews	None	
I* Final Price Submission	15300	
J* Terminations	17100	

\*Reported costs or rates questioned and/or qualified must equal \$100,000 or more.

#Containing reported CAS noncompliance OR costs or rates questioned and/or qualified equal to 100,000 or more. DLA

will identify those that are reportable. See DODD 7640.2, Change 1, para. E.4.

6. COSTS QUESTIONED: Enter the amount of Costs Questioned. from the audit report in this field. If Costs Questioned have changed from one reporting period to the next, enter the current amount in this field and enter appropriate information in REMARKS to explain the change. This could occur if an auditor sends you a revised page to an audit advising that further review revealed an error in the Costs Questioned as contained in the original audit report, for example.

7. COSTS SUSTAINED: Enter into this field the amount of the Costs Questioned by the audit report that were sustained by the Contracting Officer and documented in the

Price Negotiation Memorandum or the Contracting Officer's Decision. Following are suggestions on computing costs sustained for CAF:

a. If the difference between the amount of the contractors' claim and the amount awarded to the contractor is equal to or greater than the costs questioned by the editor, the sustained costs are equal to the costs questioned. THE SUSTAINED COSTS CAN NEVER EXCEED THE COSTS QUESTIONED.

b. If the difference between the amount of the claim and the amount awarded to the contractor is less than the costs questioned by the auditor, the sustained costs are equal to that difference.

c. You will sometimes have assist audits that are improperly reported into the system by DCAA. An assist audit is an audit on a subcontractor to your prime contractor. You will forward audit requests to the cognizant DCAA office that is responsible for auditing the prime contractor. In that request, you will identify subcontractors for which you also require an audit. The cognizant DCAA office will then request the cognizant DCAA office for each subcontractor location to perform assist audits and provide those assist audits back to the requesting DCAA office. The cognizant DCAA office for the prime contractor will then prepare an overall audit report that covers the prime contractor and all subcontractors for which audits have been requested. Only the prime contractor audit is reportable if it meets the reportable criteria in paragraph 6 above. However, we have had a few instances where the cognizant DCAA office for a subcontractor performs an assist audit and rather than coding the audit as such and providing it to the cognizant DCAA-A- office for the prime contractor, they submit the report direct to you and enter it into the DOD reportable audit log. You must then report the subcontract audit in the CAF database and it must be reported as a subcontract audit with data to match the report on the prime contractor audit and closed out simultaneously. In this case, you must maintain records of your negotiations that will enable you to ascertain and report the amount of the costs sustained on this subcontract audit. (Districts that have experienced this unfortunate phenomenon have worked with DCAA to get the assist audits taken off the DCAA audit log but have not been

successful to date.)

Remember that there are three areas to consider in calculating Costs Sustained; (1) the amount of IL-he claim as a separate item, (2) the amount of the costs questioned out of the total claim as a separate item, and (3) the amount of costs questioned that are upheld or sustained by the Contracting Officer.

8. RESOLVED: In order to determine whether or not an audit report is RESOLVED, you must understand the definition of Resolution. See DODD 7640.2, paragraph 14, page 2-2. For the purpose of audits on Claims and Requests for Equitable Adjustments, an audit report is resolved when the Contracting Officer determines the course of action to be taken and documents it in a Prenegotiation Objective Memorandum (POM) or a Findings of Fact (FoF) to support a Contracting Officer's Decision. The date the Contracting Officer signs the POM or FoF becomes the Resolution date.

9. CRIMINAL INV: An audit should be reported as being under Criminal Investigation only if the district has a letter from the investigating agency (such as CID) putting a hold on any further action. Otherwise, districts are required to continue to pursue resolution and disposition. Note the following additional information/actions relating to audits under Criminal Investigation:

a. You must put the investigation activity and the date of their letter putting a hold on action in the REMARKS block of the report. That information is to remain in the REMARKS block for subsequent reporting periods until such time as the hold is lifted by the investigation activity. SAMPLE REMARK: CID LTR. DTD. 01/15/98.

b. Once the investigation activity lifts the hold, you must have a letter from the investigation activity to that effect and the date of the letter must be placed in the REMARKS block. This remark only needs to be put in for the current reporting period in which the status changed to NOT IN CRIMINAL INVESTIGATION. SAMPLE REMARK: CID RELEASED HOLD, LTR. DTD. 04/30/98.

c. The CAF Monitor is responsible for having

the appropriate district entity (OC probably) check with the investigation activity in March and September of each year to determine any changes in status and ascertain that timely investigative action is being taken. If the investigation activity appears to be dragging its feet, raise this issue to the Division Office CAF Monitor's attention for appropriate action.

10. PENDING LITIGATION: You will report audits as Pending Litigation if a Contracting Officer Decision (COD) has been issued and has been appealed to a Contract Appeals Board within the 90 day period for filing such an appeal.

a. You must place the forum and the docket number(s) in the REMARKS block of the report and that information must remain in the REMARKS until the audit is closed out and deleted from your database. SAMPLE: ASBCA DOCKET 474545. if you have received a copy of the appeal but do not yet have the docket number, put information in the REMARKS block. SAMPLE: KTR APPEALED TO ASBCA 3/15/98, DOCKET # NOT YET AVAILABLE. If no approval is made in this time frame, you report the audit as NOT in litigation, use 'the date of the COD as the disposition date and close out the report. If a contractor files an appeal to a court within one year of the COD, you must reopen the audit report by reporting it in the CAF database as PENDING LITIGATION and note in the REMARKS that the report is reopened and identify the Court and Docket #.

SAMPLE: REOPND., COURT OF CLAIMS DOCKET 4ABCS593.

Remember, this information must now remain in the REMARKS field of your report until the audit is closed out and deleted from your database.

b. The CAF Monitor is responsible for having the appropriate district entity (OC) check with the Board or Court in March and September of each year to determine current status of the case and document status in the REMARKS field of the report.

11. RESOLUTION TARGET DATE: A Resolution

Target Date must be entered for any audit that is not resolved. The Resolution Target Date must reflect resolution within 6 months of the date of the audit report. For example, an audit dated 1 April 1998 should have a resolution target date of no later than 30 September 1998. Once an audit is reported as resolved, this date should be deleted. Note that any audit that is not reported as resolved within 6 months of the audit report date is considered overage and reported to the Overage Audit Review Board. I have noted repeatedly that the six month date is reported incorrectly in that the example shown would be reported as 1 October 1998 rather than 30 September 1998. Remember, six months later is going to be one calendar day less than the calendar day in the report date. Note that YOU would use the 6 month target date only if you do not have a set target date of less than 6 months.

12. RESOLUTION DATE: See paragraph 8. above to determine the Resolution Date. This date is to be filled in only if the audit is RESOLVED.

13. DISPOSITION TARGET DATE: A date must be entered in this field for any audit report that is not dispositioned. See DODD 7640.2, paragraph 7, page 2-1, for the definition of a dispositioned audit report. Claims and requests for equitable adjustment are dispositioned when either a settlement is negotiated, a Price Negotiation Memorandum is prepared and signed, and a contract modification is executed by both parties or a Contracting Officer's Decision (COD) is issued and not appealed to a Board within 90 days. The date of the contract modification or COD would become the disposition date in those cases. For example, an audit report dated 1 April 1998 should have a target disposition date no later than 31 March 1999. Once an audit is reported as having been dispositioned, this date should be deleted. Audit Reports are considered overage if they are not dispositioned within 12 months of the date of the audit report and must be reported to the Overage Audit Review Board.

14. DISPOSITION DATE: See paragraph 13. above to determine the Disposition Date. This date is to be filled in only if the audit is Dispositioned.

15. Data elements for CONTRACTING OFFICER,

CONTRACT #, and TEL are self-explanatory. No entry is required for DSN, DIV, and PROC POINT. STATUS is self-explanatory.

16. REMARKS: This field must have date provided for every audit reported. Following is additional guidance:

a. The first time an audit is reported, include a remark FIRST REPORTED MAR 98 or SEP 98. Remember that this database is only reported to DOD in March and September so those are the only two months that can be used. Obviously, the year will change. Delete this remark in the next reporting period.

b. When an audit STATUS is CA or CB, include a remark CLOSED MAR 98 or SEP 98. Remember that this database is only reported to DOD in March and September so those are the only two months that can be used. Obviously, the year will change. Remember, once an audit is reported as CA or CB, to delete it from the database in the next reporting period.

c. If an audit is being reported which supersedes another audit, include a remark SUPERSEDES AUDIT 1271-97A17200-092 DTD 7/25/97, for example. This remark will continue to be included until the audit report is closed out and deleted from the database. Instructions for closing out reporting of superseded audits are as follows:

(1) Edit the superseded audit by zeroing out the COSTS QUESTIONED, show the audit as RESOLVED, if PENDING LITIGATION leave the Y, leave the TARGET RESOLUTION and TARGET DISPOSITION DATES blank, show the date of the superseding audit report as the RESOLUTION AND DISPOSITION DATE, enter the appropriate STATUS (CA or CB), and in REMARKS state, for example, CLOSED MONTH/YR. SUPERSEDED BY AUDIT 1271-97A17200-092-SI DTD. 11/15/97.

(2) If an audit that has been superseded is reported as PENDING LITIGATION, assure that the REMARKS also include the Board or Court and Docket numbers. As stated in 10. above, this information must remain in your Remarks until the audit is closed out and deleted from your database.

d. If changes must be made in data elements such as ACTIVITY CODE or TYPE AUDIT from one reporting period to another, edit the audit record to reflect the change and enter information in REMARKS to explain the change. For example, if an auditor has used incorrect numbering in the second set of characters in the audit number which causes the wrong type of audit to be reported, put in a remark such as AUDITOR MISCODED, AUDIT TYPE CHANGED TO C. Leave this type information in the REMARKS until the audit report is closed and deleted from your database.

e. Sometimes audits are reported in error or need to be deleted from the database. One example is if a subcontractor assist audit has been reported and the district is successful in getting the audit deleted from the DOD reportable audit database. Another is if a nonreportable audit was previously reported (this has happened a couple of times but was caught by this office so never went to DoD). Audits can never be deleted from the database without being reported as closed. In situations like the examples above, these audits must be administratively closed. The procedures for administratively closing an audit record, including information to go into the REMARKS block, follow:

(1) To administratively close, zero out the COSTS QUESTIONED and COSTS SUSTAINED fields; enter a RESOLUTION DATE and DISPOSITION DATE that fall within the current reporting period; enter the appropriate closure STATUS (CA or CB); and enter appropriate descriptive REMARKS such as SUBK ASSIST AUDIT REPORTED IN ERROR MAR 98 - ADMINISTRATIVELY CLOSED SEP 98 or REPORTED IN ERROR MAR 98 - ADMINISTRATIVELY CLOSED SEP 98.

f. If COSTS QUESTIONED have changed from one reporting period to the next, include appropriate remarks such as COSTS QUESTIONED CHANGED FROM \$101,987 TO \$201,987 PER DCAA LTR DTD 8/15/98.

#### MANAGEMENT OF DATABASE:

1. Once all open audits are updated and new audits

entered into your database, perform the RUN EDIT CHECKS function and make any necessary corrections.

2. Once your database successfully passes the edit checks, perform the COMPARE TWO DATABASES function under the UTILITIES menu. You will compare your current database (March or September) with the previous database submitted (March or September). This function will generate two reports as follows:

a. REPORT OF CURRENT RECORDS NOT REPORTED EARLIER OR IN LITIGATION WITHOUT REMARKS: This report lists audit numbers that did not appear in the previous (Older) database but are in the current (Newer) database. All listed records that have the Report Date and Status printed fall into this category. Also listed in this report are audits that are audits that are in litigation but have nothing in the REMARKS field. Remember, all audit reports must have information in the REMARKS field. Those in litigation must always show the Board or Court and Docket Number(s) as well as current status of the litigation such as when hearings are scheduled, plans on using ADR to resolve, etc.

b. LISTING OF EXISTING AUDITS FROM OLDER DATABASE --UPDATED DATA FROM NEWER DATABASE: This report lists audit numbers that are in the OLDER database but do not appear in the current database. The message "NOT IN (DATE FOR CURRENT) DATABASE" will be printed beside the audit record information. These are records which may have been inadvertently dropped from the current database. Any audit records that had a STATUS of OA, OB, OC, OD, or OE in the OLDER database must be contained in the current database either as open or closed audit reports. Also listed are audit records reflecting a different COSTS QUESTIONED figure from the amount reported in the OLDER database. This difference must be explained in the REMARKS of the current database. Resolve all database discrepancies, including making any necessary corrections and perform the COMPARE TWO DATABASES function again to assure that your database is correct. Once this is done, your database is now ready for creation of a BACKUP database and EXPORT FILE for electronic submission to CESAD-CT.

3. Your EXPORT FILE will be created in Delimited ASCII Text and attached to an E-mail message to Frances K. Bauer at CESAD-CT.

#### REPORTING PERIODS:

1. The CAF Database must be submitted to DoD twice each FY for periods ending 31 March and 30 September. See AFARS 15.890 and EFARS 15.890-2 for further information.

2. It is SAD Policy that you submit your CAF Database to CESAD-CT quarterly. CESAD-CT will issue a memorandum giving you required reporting dates to SAD for FY99 reports prior to the end of December 1998. The required reporting dates are generally within ten calendar days after the end of the first and third quarters (Oct. - Dec., Apr. - Jun.) and generally by the 20th day of March and September.

#### USING THE CAF PROGRAM AS A MANAGEMENT TOOL:

1. The CAF Program provides reports for your use in managing your program. The IG SEMIANNUAL is particularly useful. Selection of this results in production of a report titled "STATUS REPORT ON SPECIFIED CONTRACT AUDIT REPORTS". This report should be prepared by you after submission of your March and September reports to identify those reports that are UNRESOLVED and more than 6 months old or NOT RESOLVED AND/OR DISPOSITIONED and more than 1 year old. These audits must be reported to the HQUSACE Overage Audit Review Board in the Overage Audit Review Board Reportable Audit Action Plan format. See AFARS 15.890 and EFARS 1.690-for further information. The CAF Monitor is responsible for assuring that the Overage Audit Reports are prepared and submitted via electronic mail to Frances K. Bauer no later than the 8 April and October of each year. If the 8th falls on the weekend, they are due to, CESAD-CT the Friday before the weekend.

2. This report should be run after completion of your first and third quarter CAF reports and the audits aged to 31 March or 30 September of the appropriate year. This will

identify for you audit reports that will become overage for those reporting periods if they are not resolved and/or dispositioned before then. You should then notify the Contracting Officer, Contract Specialist, Administrative Contracting Officer, and any others appropriate of this fact and that every effort should be made to prevent these audits becoming overage.

#### REPORTABLE CONTRACT AUDIT FILE DOCUMENTATION:

1. The CAF Monitor is responsible for setting up a file for each contract audit that is reported in the CAF Database. This file should include the following:

a. Contract Number, Contractor Name and Address, Contracting Officer and Administrative Contracting Officer names and telephone numbers, Contracting Officer Representative name and telephone number. Include other names and telephone numbers as appropriate such as OC representative if audits are in Criminal Investigation or Litigation.

b. Copy Contractor's Claim or Request for Equitable Adjustment, Termination Settlement Proposal, etc.

c. Copy of Memorandum to DCAA requesting audit.

d. Copy of Audit Report.

e. Copy of document transmitting Audit Report to Contract Specialist/Contract Administrator with time line for Resolution and Disposition.

f. Copy of Prenegotiation Objective Memorandum (POM).

g. Copy of Price Negotiation Memorandum.

h. Copy of Contract Modification which reflects disposition of Audit Report

i. Copy of Findings of Fact to support Contracting Officer's Decision.

j. Copy of Contracting Officer's Decision (COD).

k. Copy of Letter from Investigation Agency placing hold on resolving/dispositioning audit report.

l. Copy of Letter from Investigation Agency releasing hold on resolving/dispositioning audit report.

m. Copy of Contractor Appeal of COD.

n. Copy of letter from Board or Court assigning Docket Number.

o. Copy of Board or Court Decision

p. Copy of any contract documents reflecting implementation of Board or Court Decision, if required.

q. Copy of letter to DCAA providing information relative to resolution and disposition of the audit report.

2. A copy of the audit report will be provided to CESAD-C-L no later than the date of electronic transmission of the CAF quarterly report to CESAD-CT. Copies of any of the other documents listed in 1. above will be provided to CESAD-CT upon specific request only.

#### AVAILABILITY OF CAF MONITOR:

1. The Chief of the Contracting Division is required to advise the Director of Contracting, CESAD-CT, of any change or proposed change in the CAF Monitor. The CAF Monitor, or someone thoroughly familiar with the CAF Program, must be available to respond to CESAD-CT relative to questions on the March and September CAF reports from the time the report is submitted to CESAD-CT through the due date to DoD of the CAF Report as detailed in AFARS 15.890. If the CAF Monitor is going to be absent in this time frame, the district is responsible for notifying CESAD-CT of the absence and the alternate point of contact for any

questions.

2. Contracting Officers and Administrative Contracting Officers are required to be available to participate in the HQUSACE Overage Audit Review Board. The CAF Monitor is responsible for notifying those individuals of the time, date and place of the Overage Audit Review Board meeting. Normally the Board will contact each district with an Overage Audit Report via telephone, however, there may be times the Contracting Officer and Administrative Contracting Officer will have to physically travel to the site where the meeting will be held. HQUSACE (CEPR) will advise MSC's and district and dates, times, and location of the meeting sufficiently in advance to allow participants to adjust their schedules to assure participation. If participants cannot be available on the scheduled date, CAF Monitor is to notify CESAD-CT immediately. Alternates knowledgeable of the audit report and current actions must be identified to participate in the OARB meeting and must be identified to CESAD-CT in advance of the OARB meeting.

#### LESSON LEARNED - DEPOT CORROSION CONTROL FACILITY

*(Rick Hedrick/Susan Killgore, CESWT-CT)*

PROJECT: Two-Phase Design/Build Depot Corrosion Control Facility, Tinker Air Force Base, Oklahoma

BACKGROUND: A recent change to Federal law and the Federal Acquisition Regulation (FAR) allowed the use of a new procedure for selecting contractors for award of design-build contracts. This procedure, known as two-phase, allows the Government to evaluate initial offers without regard to price, and select up to 5 contractors for a final evaluation, which includes price. This procedure is particularly encouraged by the FAR when design work must be performed by offerors and these offerors will incur a substantial

amount of expense in preparing offers.

ISSUE OF NOTE: The two-phase procedure was used for a \$13M project, Depot Corrosion Control Facility at Tinker AFB, Oklahoma. The issue explored here is, was it successful in this instance; and, should the procedure be used for other projects?

DISCUSSION:

1. The Tinker project was given to Tulsa District for fast track execution after attempts to achieve a local government execution solution failed. The project came to the Tulsa District with no design effort accomplished and no time available to allow even minimal design in order to execute the project. As a result, the two-phase procedure was selected for execution as it met all of the requirements of FAR 36.3 and it provided the only viable method for execution within the time frames established by the customer.

2. By using this procedure, Tulsa District was able to award this project within the required time frame, 9 months earlier than could have been accomplished by traditional design-bid-build and 3 months earlier than could have been accomplished by other design-build selection procedures.

3. The initial phase received proposals from 11 offerors, about 50% more interest than previous design-build procedures had obtained. These 11 were then reduced to three offerors for the second phase of the process. The contract was awarded within the funds available and there were no protests.

4. After award of the project, questionnaires were sent to all offerors and all participants in the selection phase for the Government. In all, 27 of these questionnaires were sent with 13 responses received. The results of these questionnaires identified approximately 37 strong points to the process and 22 weak points. These strong and

weak points are listed at Attachment 1. The significant strong points were that the process achieves significant schedule savings, provides greater incentive for innovative solutions and use of industry standards (vice military standards), places more control/responsibility on the designer/builder and reduced the expense of preparing proposals for those not being included in the second phase. The significant weak points were that there is a large unrecoverable expense of preparing offers for the three finalists, the perception that only larger firms could succeed in being awarded these types of contracts, the process is extremely difficult and time consuming for the government evaluators, and the performance scope of work made it difficult for the final offerors to understand the users needs. Additional comments included recommendations to pay a stipend to those offerors participating in the final phase, allow design reviews during the second phase and conduct a predesign conference at the beginning of phase two.

RESOLUTION: The two-phase process was a success for this project and should be considered as a possible acquisition strategy on all projects, particularly those involving highly complex facilities.

All respondents to the questionnaire (5 contractors) indicated they would participate in this process if it were used on future projects. As the first project using this process, there are understandably improvements which can and should be made. However, the process is another tool which should be considered by all responsible project management teams.

INSIGHTS:

1. Site visits and a predesign conference with each offeror selected for phase two should occur. This should alleviate the weakness which noted that the performance scope of work make it difficult to understand the users needs.

2. Consideration should be given to paying a



stipend for all offerors in the final phase. Although FAR 36.3 makes no allowance for paying a stipend (it does not prohibit, either) and although it is the opinion of this author that it is unnecessary, there may be some instances in which it could or should be used. This would alleviate the weakness which noted that there is a large unrecoverable expense in preparing offers for the second phase.

3. FAR 36.3 allows for the use of one solicitation for the entire process or using a different solicitation for each phase. One solicitation was used for the Tinker project and it is the opinion of this author that one solicitation is preferable. However, there may be instances when two solicitations might be beneficial.

4. Competition for this project was greater than on any other design-build project issued by Tulsa District. The process requires minimal effort for the initial phase proposal, an apparent reason for this larger pool of contractors from which to choose. Small business should be encouraged to participate to alleviate the weakness which noted that there is a perception that only large business could succeed. It should also be noted that one of the three finalists on the Tinker project was a local small business. There is a temptation to complicate the selection criteria used for the initial evaluation and requiring more definite information in the initial proposals. This temptation should be avoided as it could easily restrict competition.

### INTEGRATED PRODUCT TEAM (IPT) PROCESS

*(William Brewer, CETAC-CT)*

The Integrated Product Team (IPT) process provides contract support to U.S. military troops deployed to the Balkans in support of Operation Joint Guard.

**Facts:** To date the Logistics Support Services Team at the Transatlantic Programs Center (TAC) has employed the IPT process twice to provide

logistic support services to U.S. military troops deployed to Bosnia, Croatia and Hungary through the LOGCAP and the Operation Joint Guard Sustainment contract With Brown & Root Services Corporation (BRSC), Houston, Texas.

The IPT was employed for the first time at TAC to provide a six month extension of logistic support services under the LOGCAP contract (DACA78-92-C-0066). These services included; base camp operations & maintenance, laundry & food service operations, transportation, equipment maintenance, container handling & shuttle bus services, road repair & maintenance, class III operations (bulk fuel distribution), mail route operations, hazardous waste management, and short duration redeployment services for troops leaving theater. Primarily BRSC provides all logistic support services to the deployed troops. The contract method chosen for LOGCAP is cost plus award fee (CPAF).

The idea to perform an IPT for the six month extension of the LOGCAP contract came from the first AMC Army Roadshow. The contracting officer (Bob Gruber) for the LOGCAP contract was hesitant to employ this process since there had been some adversarial relationships between the customer, United States Army Europe, Deputy Chief of Staff for Logistics (USAREUR DCSLOG), Defense Contract Audit Agency (DCAA), Defense Contract Management Command (DCMC) corporate Administrative Contracting Officer (ACO) team in the past. Since this contract supported contingency operations, it was hard for DCAA and DCMC to depart from conventional contracting procedures, whereby a negotiated contract or modification was required in place prior to services starting. Throughout the term of the LOGCAP contract, modifications were issued through unpriced change orders (UCO's) or undefinitized contract actions (UCA's) that were definitized later within the requirements of Defense Federal Acquisition Regulation Supplement (DFARS). The other problem was the customer not understanding cost

reimbursement contracting procedures and trying to apply fixed price procedures to this contract. It should also be noted the schedule to definitize this action was very tight, considering the use of conventional contracting procedures.

A result of these adversarial relationships and the tight schedule, the IPT process was employed for this extension of services. The team consisted of the principal stakeholders of this contract activity, which were members from the Transatlantic Programs Center (TAC), DCAA, DCMC, USAREUR DCSLOG, and BRSC. The team kicked off the IPT at BRSC's offices in Houston, Texas on 30 October 1996. A charter was prepared depicting the functions, roles and goals of the team. The team was tasked with developing the method by which BRSC would submit its proposal costs through a series of cost drivers. These cost drivers were dependent on headcounts of troops, bed counts, historical data or developed from the ground up. We were told an average of 10,000 troops would require support and that from time to time there would be fluctuations in troop strength, due to rotation of commands, of up to 14,000 troops. From these scenarios the team had to determine the cost drivers (head count or bed count) and whether to use historical data, perform a ground up analysis on work not previously performed, and provide any seasonal factors if applicable. The process continued through 8 November 1996 for the majority of the team with exception of DCAA who remained on site to ensure the cost drivers and other factors were utilized in establishing individual costs. A proposal was received from BRSC on 20 January 1997 and a contract modification, extending the LOGCAP event for an additional six months was awarded to BRSC on 13 February 1997.

The IPT process was an excellent tool to use because it cut normal conventional contracting procedures from 180 days to 106 days. In the conventional contracting process audit reviews are performed after receipt of proposals causing

adversarial reviews. The independent government estimate for the six month extension was \$116 Million and the final negotiated estimated cost was \$84,087,742. The IPT process permits auditors to review and provide comment on portions of cost data and proposal format prior to contractor proposal submission. The auditors cannot help the contractor prepare their proposal though. In this particular case, the auditors did not question any costs nor did they find any unsupported costs. The process provides for open communication amongst all team members and empowers them to make decisions without interference at all levels. The IPT brought together a more cost efficient contract modification to extend services in a short period of time. The process also developed a better understanding of contracting procedures to those team members who didn't understand them and relationship with BRSC. The IPT process is matter of choice now since it was first utilized.

The IPT process was utilized a second time to award the Operation Joint Guard Sustainment (OJGS) contract (DACA78-97-D-0001). This is an IDIQ contract that replaced the LOGCAP contract when it expired and provides sustainment services to the troops still deployed to Bosnia, Croatia and Hungary, similar to those provided under LOGCAP. Due to the uncertainties involved in a contingency environment such as this, it became difficult to establish fixed price task orders. To date all task orders issued against the contract have been cost plus award fee. The IPT process was similar to that performed in the six month extension of LOGCAP, except that the services were to cover a one year basic contract period, with two six month options. Since the services were similar to the LOGCAP extension, the IPT was responsible for reviewing the cost drivers and other factors to ensure they were applicable to this contract. The IPT process started on 17 March 1997 and the contract was awarded on 19 May 1997. The process took a total of 63 calendar days to complete. The total negotiated estimated cost for the basic contract year was \$139,215,485 and each six month option

was \$69,317,488 and \$64,396,179 respectively.

As stated earlier, the IPT process is a preferred choice amongst the team members. This process has eliminated those adversarial actions that have arisen in the past over conventional contracting.

### **GAO Protest Defended**

*(Don Grskovich, CELRC)*

The Chicago District successfully defended a GAO protest from an unsuccessful offeror that protested the Contracting Officer's nonresponsibility determination. The basis of the determination of nonresponsibility was an unsatisfactory performance rating in previously awarded Corps contracts. Although the Small Business Administration (SBA) denied the issuance of a Certificate of Competency (COC), the unsuccessful offeror protested that the previous CCASS rating was unjustified and that there were other contracts (non-Government and Government) that should have been used in the nonresponsibility determination. After the SBA denied the COC, and during the course of protest resolution, the unsuccessful offeror continued to submit additional information to the Contracting Officer on previous contracts. Although the Contracting officer reviewed the new information submitted, it was determined that it was not adequate to reverse the initial nonresponsibility determination. GAO upheld the actions of the Contracting Officer on the grounds that the Contracting Officer did not act in bad faith and there was no lack of reasonable basis. GAO ruled that "As the Contracting Officer gave SBA the entire file pertaining to the initial determination of nonresponsibility, and there is no evidence of bad faith, the GAO did not consider the protestor's allegations pertaining to the initial nonresponsibility determination". Lesson learned in this case are:

1 - if the Contracting Officer must go to SBA on a COC, the best policy is to release to SBA the entire backup behind the nonresponsibility determination, and

2 - if the unsuccessful offeror continues to submit additional information after the nonresponsibility determination was made, the Contracting Officer must act reasonably in assessing the new information against the previous information.

II. Flexible Contracting for Emergency Standby Equipment The Chicago District used an innovative contracting technique in satisfying a requirement to provide a crane and barge at the Chicago Lock while the lock was undergoing dewatering. As the lock is a vital part of the City of Chicago's flood control system during a heavy rain event, a method had to be devised to provide for the emergency lifting of the bulkheads (estimated 4 hour response time) during the months of November to April if a rain event were to occur. If the bulkheads were in place, the lock could not be opened to provide flood control. Rather than awarding a firm fixed price contract for the entire period, a 4 phased-type contract was awarded structured as follows:

Phase 1 - Firm Fixed Price per day for each day of the contract period for the contractor's barge and crane to be on-site at the lock.

Phase 2 - A daily rate for the contractor to have his crew on-call if it was anticipated that there could be a rain event. The contractor would be put on call, and the contractor would only bill against this line item for the amount of days the contractor's crew was put on call by the Government.

Phase 3 - A fixed price for the contractor's crew to come to the site and hookup the crane to the bulkheads. The contractor would bill for this line item only if the Government instructs the contractor to mobilize the crew to the lock.

Phase 4 - The contractor actually lifts the bulkheads out of the lock to allow the lock gates to be opened for flood control. The contractor would be paid a fixed amount, but only if the Government instructs the contractor to actually lift the bulkheads.

During the '97 - '98 Winter, the contractor was put on Phase 2 call a couple of times, but Phases 3 and 4 were never implemented, and consequently,

the Government did not have to pay for those services, thereby saving significant dollars. It must be noted, however, that at the time of contract award, all 4 phases need to be funded as the Government was obligated for the costs of phases 2,3 and 4 if implemented, and there would not be the time to obtain funds prior to instructing the contractor to implement those phases.

### **CURRENT GOVERNMENT PROPERTY**

*(Robert Gruber, CETAC)*

In April 1997, one of the Transatlantic Program Center's (TAC), Directorate of Contracting employees attended the IND IO 1, Contract Property Administration Fundamentals class at Air Force Institute of Technology (A-FIT), Wright Patterson Air Force Base, Ohio. The employee reported that during the class, the instructors, Dr.'s Doug Goetz and John Paciorek frequently made inaccurate statements about TAC's LOGCAP contract that was utilized to provide logistics support to U.S. military troops deployed to Bosnia, Croatia and Hungary, in support of Operation Joint Guard (OJG). They also made some erroneous statements about the performance of the contractor, Brown & Root Services Corporation (BRSC), Houston, Texas, the contract setup and the lack of property administration by the government under the contract.

Dr.'s Goetz and Paciorek are members of Ms. Eleanor Spector's FAR Part 45 rewrite team. They are recognized as the only two professors by DOD and the Defense Acquisition University (DAU) certified to teach government property administration. They also teach private industry employees property administration. They are responsible for rewriting the DOD Property Manual.

We felt it was necessary to clear up these misunderstandings. Mr. Bill Brewer, Director of Contracting at TAC and I (Bob Gruber, Contracting Officer, LOGCAP contract) called the professors to

discuss these misunderstandings and to invite them to TAC to learn more about the LOGCAP contract and contingency operations. Instead they invited us to AFIT to speak to their IND 201, Intermediate Contract Property Administration class at the end of May, 1997.

We spoke to the class, responded to many questions and cleared the air on many issues. It was apparent the two professors had little to no involvement in contingency contracting, especially an event such as the magnitude of OJG. We were given a draft copy of the FAR Part 45 property rewrite and were directed to the proposed clause at FAR 52.245-5, Government Property (Cost-Reimbursement, Time and Material, or Labor Hour Contracts). This clause, as written would deny contractors on cost reimbursement contracts from acquiring equipment for the Government unless the equipment is specified as a deliverable end item. We emphasized this would hamper operations such as OJGS since the thrust of the contract was to provide logistic support services to the troops. We emphasized that contractors could not provide the amount of equipment necessary to support an operation the size of OJGS out of their own stocks and remain solvent or without leasing at an enormous cost to the government. This is especially true when one considers that OJGS is spread out over three countries. We felt, the draft regulation was addressing contracts where contractors were working in Government Owned Contractor Operated (GOCO) plants, where they supplied the equipment and would amortize the cost of equipment over the life of the contract. We stated that our contract was different, in that material and equipment costs were direct charged to the contract in accordance with the contractors Disclosure statement.

We invited the professors to travel to Bosnia, Croatia and Hungary with us so that they may see first hand how we handled contractor acquired property in a contingency environment and to view BRSC's operations. We felt if they could see these

operations, they would be able to 'de dialog to the FAR rewrite committee to change the draft ruling and better write the DOD Property Manual. They accepted our request, however, were concerned about their training schedules and funding for the trip. I continued to pursue the trip with the professors and in September 1997 a window opened up for them to travel during the first three weeks of November 1997 if they could get permission from DAU to re-schedule one of their classes. Permission was obtained, invitational travel orders were cut and information went back and forth on preparations for the trip, such as shots required, passport data, TA-50 gear requirements, itineraries and scheduling them for STYX training at Hoensfeld, Germany to allow them to travel within Bosnia. This training is required for all travelers to Bosnia and includes mine warfare, media and first aid training and human/vehicle search techniques. Mr. Brewer and I had already been certified at Hoensfeld. We also had to obtain necessary Country Clearances and SECDEF approval to travel within the Theater of Operation. The latter approval came within two work days prior to starting our trip.

On 3 November, 1997 the two professors and I traveled to Wiesbaden, Germany. Between 5 and 7 November, Dr.'s Goetz and Paciorek attended STYX training and on 8 November we traveled to Budapest, Hungary to start our trip. On 9 November we were joined by the Defense Contracting Management District International's (DCMDI) lead Administrative Contracting Officer (ACO) and property administrators who have been delegated certain FAR Part 42 contract administration functions by the Procuring Contracting Officer (PCO) to perform field administration of the contract and the BRSC country/theatre project managers and the property manager. After an in briefing in Kaposvar, Hungary we traveled to Tuzla, Bosnia. Between 9 -16 November we visited all but three camps and BRSC's operations in the Operation Joint Guard, Theater of Operation. The primary purpose of this trip was to provide the visiting professors a first

hand look at BRSC's operations and their property system. The professors were briefed on BRSC's procurement and property processes at each location we visited. They asked a myriad of questions, received numerous demonstrations and were performed various tests of BRSC's system.

Upon the completion of the trip the professors briefed the USAREUR DCSLOG (BG Larry LST) on what they had observed. They contended that of over a thousand property systems they had seen, BRSC had the best. They stated that they had some pre-conceived notions prior to making the trip that the contractor's system and the government's administration of that system had gone amiss. They were surprised to see the opposite. They stated that the visit had opened their eyes to a lot of areas not currently addressed in the DOD property regulations with regard to contingency contracting and based upon that, they found it remarkable that we were able to run a contract such as OJGS within the boundaries of property law. They were extremely complimentary of BRSC's property management and our administration of the contract. They told us that because of having seen this operation, they would be better able to make recommendations of suggested changes to the committee on the rewrite of FAR Part 45 and the DOD Property Manual.

Since the professors return, they have been successful in removing the restriction on contractors of only being able to acquire equipment if the equipment is an end item(s) under cost reimbursement contracts. They continue to work with the FAR Part 45 and DOD Property Manual rewrite teams.

**BEST VALUE SOURCE SELECTION**  
(Marsha Rudolph, CETAC)

1. Purpose: to describe experiences using Best Value Source Selection on acquisitions for work performed outside the United States.

2. Facts: Transatlantic Program Center has several successful contracts in which best value approach to selecting a contractor has resulted meeting our goals and having a satisfied customer.

3. The best value approach in selecting a contractor on a negotiated action is time consuming at the early stages of the acquisition but can lead to easier administration after contract award. The best value approach was first used on selecting contractors for both fixed price and cost reimbursement type contracts. It was very time consuming in developing the criteria for incorporation into the solicitation and later during the evaluation process. In the early attempts to use best value, the individuals tasked with actual evaluating the proposals were not involved in the development of the source selection criteria. They had no knowledge of what criteria and experience was expected from the firms until after receipt of the proposals and the evaluation process had started. We soon realized this aspect of our source selection process needed improvement.

4. Early in the solicitation process, the project manager and other members of the team, to include our customer, develop an outline of important factors for successful completion of the contract. The team develops this outline and decides which individuals are going to actually perform the evaluation of the proposals. The evaluating individuals are included in the discussions and development of actual evaluation factors prior to release of the solicitation and finalization of the source selection plan. (We have a local policy which states the source selection plan must be developed and approved prior to issuing the solicitation.) The idea is for all participants to have knowledge and familiarity with the requirements of solicitation prior to actually attempting to review the proposals received. Sometimes due to work load

fluctuations and unforeseen changes, it is necessary to substitute individuals on the source selection team. When this happens, the new member is provided a copy of the source selection plan for their review as early as possible.

5. The evaluating team is actually two separate groups. A technical group reviews the technical proposals against the technical source selection criteria without privy of the price/cost proposal. A separate group normally consisting of two members review the entire proposal submitted by each offeror and develops the price/cost evaluation report. The price group normally reviews the complete proposal and technical evaluation report prior to completing their price evaluation report.

6. The biggest problem our organization has seen in the source selection process is the lack of importance the evaluators have on performing an adequate evaluation. This occurs with both the technical and price evaluations. Due to the quality of these reports, it became obvious the source selection official needed to provide more hands on guidance to the evaluators when they were actually performing the evaluation. This weakness was seen on several best value source selection recommendations provided to the selecting official. Each time the teams were requested to reevaluate the proposals in accordance with the selection criteria and the source selection plan. As a source selection official, more time is spent with the team during the initial meeting to start the evaluation process. The selection official would go over the source selection plan and the criteria as outlined in the solicitation with all the members on the evaluation team. Members of the evaluation team are briefed to ensure their evaluation corresponds with the source selection plan which they help develop. Furthermore, they are advised if they have any questions or concerns during their review of the proposals the source selection official is available to provide guidance. The source selection official visits the evaluators to query as to how the evaluation is progressing and if they are having any

significant problems. This extra initiative appeared helpful in the final product received from the evaluation teams.

7. Some of the problems encountered prior to providing the additional guidance explained above centered around the evaluation reports not reflecting the requirements of the solicitation and the source selection plan. Each time the reports were returned to the teams for revision and on some occasions even complete re-evaluation of the proposals submitted. On several solicitations the price/cost evaluation report indicated the low offeror was always reasonable even when it was obvious the offeror may have misunderstood the scope of the item priced. Another problem was prices were compared to the government estimate and not to the competing offerors. This situation varied depending on if the government estimate was competitive or not.

8. Upon completion of acceptable evaluation reports, the source selection official reviews the reports, offerors proposals, and prepares the selection memorandum or development of competitive range and proceeds accordingly. This selection memorandum explains in detail the reasons for selecting the proposed awardee and why other proposals are inferior to the selectee. During this process, the evaluation teams are preparing draft debriefing sheets outlining weakness, strengths and areas for improvement. This is extremely helpful in having this ready for debriefings due to time frames required in FAR 15.505.

9. The best value approach provides the selecting official an extremely good view of the contractors proposed method of performing the scope of work and is the first step towards starting the partnering concept for successful completion of the contract. Since using this method, the number of claims have decreased tremendously and there is a more harmonious relationship between the Government, contractor and customer.

### TAC CLARIFIES LOGCAP

(Robert Gruber, JR, CETAC)

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### ***WHAT'S NEW ON THE CAREER FRONT***

#### ***TRAINING UPDATE***

#### ***FY 98 THE YEAR OF CHANGES!!!!***

*(Jean Neill, CEHNC)*

DEFENSE ACQUISITION UNIVERSITY (DAU) has changed the contracting courses, by combining, eliminating and renaming others.

Thus streamlining the program.

#### ***They Have Eliminated***

CON 103 Construction Contract Fundamentals  
CON 106 Construction Contract Pricing  
CON 223 Construction Contract Management

Since DAU Has adjusted some of the courses across the board, our acquisition engineers are no longer confined to using navy facilities training center courses only. They are being placed in schools closer to their location making it more cost effective for U.S. Army Research, Development and Acquisition Information Systems Activity (RDAISA).

#### ***Current Courses Required by 0800 Series for Their Warrant.***

CON 101 Fundamentals of Contracting  
CON 104 Fundamentals of Contract Pricing  
CON 202 Intermediate Contracting  
CON 210 Government Contract Law.

#### ***DAU Has Combined***

CON 211 \  
CON 221 \ CON 202 Intermediate Contracting  
CON 223 /

If an 1100 or Any Acquisition 0800 (ENGRS) Have Completed CON 211, CON 221 OR CON 223. They Do Not Have to Complete CON 202 to Meet Their Level II Requirement, Rdaisa Will Disapprove the Application Due to Previous Completion of Either CON 211, 221 OR 223 COURSES.

#### ***DAU Has Changed***

CON 201 Government Contract Law to Con 210  
CON 231 Intermediate Contract Pricing to Con 204

#### ***New Courses Added to the Program***

CON 243 A& E Contracting  
CON 244 Construction Contracting  
The Course Descriptions Can Be Found in the